

REMARKS

Presently rejected by the Office Action of February 24, 2009 are claims 1-9 and 12-22. Various of these claims have been amended and dependent claims 27 has been added to more particularly recite distinguishing structural features, in view of the rejections. In view of the amendments and the following remarks, withdrawal of the rejections and allowance of the application is respectfully requested.

Rejection Under Section 112

Applicants do not agree with the rejection of claims 1-9 under Section 112. In the interest of expediting prosecution, Applicants have amended claim 1. The rejection is now believed to be overcome. It is believed that on the basis of the present amended claim, the person skilled in the art readily would understand what the Applicants regard as the invention. Withdrawal of the rejection is respectfully requested.

Rejection Under Section 102(b)

Applicants do not agree with the rejection of claims 1 under Section 102. In the interest of expediting prosecution, Applicants have amended claim 1. The claim is now believed to further distinguish from German '122, and the rejection is believed to be overcome. Among other features absent, German '122 does not show the metallic core having at least one recess aligned with at least one recess of at least one knife that cuts meat; and at least one eccentric retaining bolt that inserts into the at least one recess of each of the at least one knife and the metallic core to mount the at least one knife to the metallic core. German '122 also does not show positioning of the eccentric retaining bolt between at least two rotational positions adjusts the position of the knife in at least two different radial positions on the cutter head disk. Withdrawal of the rejection is respectfully requested.

Rejection Under Section 103

The Office Action has rejected claims under various combinations of publications, namely Schaller and German '046 (claims 1, 5 and 6); Schaller, German '046 and Meister (claims 2, 3, 7-9, 12-15, and 16-22), and Schaller, German '046 and German '652 (claim 4).

Applicants disagree with the rejections and believe that the Office Action fails to make any fact findings as to differences between the claims and the cited publications; makes unsupported fact finding as to others; and supplies inadequate rationale as required by *KSR International co. v. Teleflex, Inc.*, 82 U.S.P.Q.2d 1385, 1396 (2007). The Office has the burden to explicitly analyze:

. . . interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”)....

First, without conceding the validity of the rejections, the claims have been amended to further distinguish the inventive subject matter from the cited publications. As will be seen the claims now include various additional features that simply are not present in any of Schaller, German '046, Meister, or German '652. The rejections are believed to be mooted by the amendments, as it is believed that the Office will be unable to demonstrate the existence of the amended features in any of the references. It is also believed that the Office will be unable to demonstrate that the teachings of the cited publications could be modified in a manner necessary to arrive at the claimed invention without rendering the teachings inoperable.

As set forth in MPEP 2143.01 THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE. See *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (CCPA 1959). See also *In re Fritch*, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992) (“The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification”).

Claims 1, 5 and 6: Schaller/German '046

As acknowledged by the Office Action at page 3, second paragraph, Schaller does not teach the use of an eccentric retaining bolt as now claimed in Claims 1, 5 and 6. The Office Action fails to show how to make such a modification to arrive at the presently claimed structure. The Office Action also fails to show how to make such a modification in a manner that would allow Schaller and German '046 to operably function for their intended purposes. For at least

the above reasons, Applicants believe that, especially as now claimed, the subject invention is not obvious over any combination of Schaller and German '046 and Meister. Withdrawal of the rejections on the basis of Schaller, German '046 and Meister is respectfully requested.

Claims 2, 3, 7-9, 12-15, 16-22: Schaller/German '046/Meister

The Office Action says that "[i]n order to provide for easier assembly/disassembly, it would have been obvious for one of ordinary skill in the art to modify Schaller by using an eccentric bolt to located (sic) the cutters, taught to be desirable by Meister et al." The Office Action fails to show how to make such a modification to arrive at the claimed structure. The Office Action also fails to show how to make such a modification in a manner that would allow Schaller, German '046 and Meister¹ to operably function for their intended purposes. The Office Action provides no discussion about the modifications needed to German '046 to incorporate any eccentric bolt. The Office Action makes no findings to address any claimed feature of an adjustable knife. The Office Action also disregards the sleeve 13 of Schaller, and does not show how an eccentric bolt could be introduced into that structure. The Office Action also does not show how an eccentric bolt could be employed in the Schaller structure to accomplish radial knife adjustment. For at least the above reasons, Applicants believe that, especially as now claimed, the subject invention is not obvious over any combination of Schaller, German '046 and Meister. Withdrawal of the rejections on the basis of Schaller, German '046 and Meister is respectfully requested.

In addition to the above, the Office Action is deficient in that findings of fact have not been made to address numerous of the recited claim features and their interrelation with other features, such as the shoulder feature, the embedded magnet feature, the filling plate, weights in recesses, etc. The only discussion arguably applicable to the rejection of claims 2, 3, 7-9, 12-15 and 16-22 is that "the remaining limitations of these claims would then have been obvious design choices once the basic apparatus was known." This not only is conclusory and ignores the identification of the various specific limitations of the claims that are completely absent from any mention in the rejection, such as the shoulder feature, the magnet feature, filling plate, weights in recesses, etc. But, the one alleged limitation that is cited by example, "the use of

¹ The Office Action also has not shown how the problems encountered by Meister have any relation to those overcome by the meat cutter claimed. Meister does not address use of meat cutting knives.

seals", is not tied to any specific claim. Rather, the claims that employ any reference to "seal" recite a "sealing edge" (and, as in claim 6, one including a raised circular ring or section), as to which the Office Action has not (i) applied any teachings of the cited publications; or (ii) shown how the structures of the cited publications would be modified to preserve its function for its intended purpose and to form a sealing edge. The rejections of these claims should be withdrawn for these additional reasons.

Claim 4: Schaller/German '046/German 652

For the above reasons and others, the rejection cannot stand, especially as to amended claim 4. The Office has not, and is unable to show how Schaller, German '046 and '652 could be modified to arrive at the claimed invention of claim 4, especially as now amended. The claimed combination, as a whole, is simply not taught or suggested by the references. Accordingly, the rejection should be withdrawn.

As to all of the foregoing amendments, they are taken in the interest of expediting prosecution, and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled in view of the prior art. Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

CONCLUSIONS

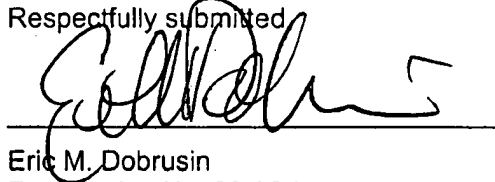
In view of Applicants' amendments and remarks, the rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicants request that the Examiner contact the undersigned at (248) 292-2920.

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If for some reason Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

Dated May 26, 2009

Respectfully submitted

A handwritten signature in dark ink, appearing to read "Eric M. Dobrusin", written over a horizontal line.

Eric M. Dobrusin
Registration No. 33,867
DOBRUSIN & THENNISCH PC
29 W. Lawrence Street
Suite 210
Pontiac, MI 48342
(248) 292-2920

Customer No. 25215